

FRANCIS B. JONES.

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JANUARY 19, 1910.—Ordered to be printed.

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Mr. KITCHIN, from the Committee on Claims, submitted the following

### ADVERSE REPORT.

[To accompany H. R. 9152.]

The Committee on Claims having had under consideration the bill (H. R. 9152) for the relief of Francis B. Jones report the same with a recommendation that it do not pass.

It appears that Francis B. Jones, a lieutenant-colonel of the United States Army, retired, had to settle his accounts as a quartermaster of the army. It also appears that on November 23, 1901, the Auditor for the War Department disallowed the sum of \$65,250.17, and on November 13, 1902, disallowed the sum of \$111,437 in his settlement of accounts of Lieutenant-Colonel Jones for alleged overpayment on account of repairs on certain army transports.

An appeal was taken to the Comptroller of the Treasury by the Secretary of War, and the matter was certified by the Secretary of the Treasury upon the Comptroller's request to the Court of Claims.

January 4, 1907, the Court of Claims decided in favor of Lieutenant-Colonel Jones, and his claim for overpayments was approved.

During the time the officer was settling his accounts he asked for the difference between active duty pay and allowances and retired pay in the sum of \$4,373.50. He claims for money expended in connection with the settlement of such account \$163.45. He also asks for counsel fees for prosecuting his case in the Court of Claims \$5,000, making in all the sum of \$9,536.95, being the amount claimed in his bill.

Your committee after careful consideration are unanimous in the opinion that the claimant is not entitled to the relief sought, he is no more entitled to relief in this case than other citizens who are required to account to the Government when their accounts may be questioned and the accountant is required to defend his accounts in a court of law.

The allowance of this claim, in the opinion of the committee, would set a bad precedent in this that all persons whose accounts are questioned in settling with the Government would be entitled to be reimbursed out of the Public Treasury for expenses and counsel fees expended by them in settling accounts. As to his claim for active duty pay and allowances the committee unanimously opposed that item.

Attached hereto and made a part of the report is the report from the War Department.

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WAR DEPARTMENT,  
OFFICE OF THE QUARTERMASTER-GENERAL,  
*Washington, February 18, 1909.*

SIR: I have the honor to return herewith H. R. 27587 (60th Cong., 2d sess.), for the relief of Lieut. Col. Francis B. Jones, retired.

It is proposed by this bill to pay Lieutenant-Colonel Jones the following sums:

1. The difference between active duty pay and allowances and retired pay for the period he was engaged in settling his accounts as quartermaster, being one year four months and twenty-four days as major, and one year five months and twenty-five days as lieutenant-colonel, in the time between January 1, 1902, and October 19, 1905 . \$4,373.50
  2. Money expended by him in connection with the settlement of such accounts..... 163.45
  3. Fees for counsel services in the commencement and prosecution by him of two suits in the United States Court of Claims to secure the allowance and settlement of such accounts (the suspension of which occurred through no fault of his own)..... 5,000.00
- 9,536.95

The facts in the case are these:

On November 23, 1901, the Auditor for the War Department disallowed the sum of \$65,250.17, and on November 13, 1902, the sum of \$111,437, in his settlement of the accounts of Lieutenant-Colonel Jones, for alleged overpayments on account of repairs to certain army transports. Upon appeal to the Comptroller of the Treasury by the Secretary of War the matter was certified by the Secretary of the Treasury, upon the comptroller's request, to the Court of Claims under the provisions of the act of March 3, 1883 (22 Stat., 485), known as the Bowman Act.

On January 4, 1907, the Court of Claims decided in favor of Lieutenant-Colonel Jones for \$63,895.17 and \$111,437, and under date of February 4, 1907, the comptroller wrote Lieutenant-Colonel Jones as follows:

"You are advised that I have revised the action of the Auditor for the War Department in settlements Nos. 22389, dated November 23, 1901, and 27111, dated November 13, 1902, and in accordance with the decision of the Court of Claims on said claims, Nos. 75 and 77, department case, dated January 4, 1907, and allowed the sum of \$63,895.17 in settlement No. 22389 and the sum of \$111,437 in settlement No. 27111.

"I have approved the action of the auditor in disallowing the sum of \$1,375 in settlement No. 22389, as paid on voucher 13-B, March, 1900, for the reason that said payment was a duplicate payment, as found by the Court of Claims.

"The papers and a certificate of difference have been transmitted to the Auditor for the War Department."

The sum of \$1,375 was refunded by the contractor and was deposited to the credit of the Treasurer of the United States May 9, 1902, certificate of deposit No. 1611, and so far as this office is concerned Lieutenant-Colonel Jones is now no longer a debtor of the United States on this account.

Of the sums proposed to be paid Lieutenant-Colonel Jones by the accompanying bill, the amount of \$5,000 for counsel fees and \$163.46 for minor expenses are considered by this office to be meritorious claims, and it is recommended that the bill be approved to this extent.

So far as relates to the proposed payment of \$4,373.60, the difference between active pay and allowances and retired pay, this office is of the opinion that there is no justification of this claim. Whenever an officer of the army is retired, the final

settlement of his accounts is made after the date of retirement, and he could with equal justice claim active pay and allowances until they were settled. It is believed that to pay Lieutenant-Colonel Jones this sum would establish an undesirable precedent.

For these reasons it is recommended that this item be not approved.

Respectfully,

J. B. ALESHIRE,  
*Quartermaster-General, U. S. Army.*

The SECRETARY OF WAR.

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